

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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PATRICIA IPAVEN CLARKE and  
TOWNSEND CLARKE,

Plaintiffs,

v.

ORDER  
05-CV-595

PEEK 'N PEAK RECREATION, INC.

Defendant.

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This case was referred to Magistrate Judge Jeremiah J. McCarthy, pursuant to 28 U.S.C. § 636(b)(1). Defendant filed a motion for summary judgment. On November 16, 2007, Magistrate Judge McCarthy filed a Report and Recommendation, recommending that defendant's motion be denied.

Defendant filed objections to the Report and Recommendation on November 26, 2008, and plaintiffs' filed a reply thereto. Oral argument on the objections was held on March 6, 2008.

Pursuant to 28 U.S.C. § 636(b)(1), this Court must make a de novo determination of those portions of the Report and Recommendation to which objections have been made. Upon a de novo review of the Report and Recommendation, and after reviewing the submissions and hearing argument from the parties, the Court adopts the proposed findings of the Report and Recommendation.

Accordingly, for the reasons set forth in Magistrate Judge McCarthy's Report and Recommendation, defendant's motion for summary judgment is denied. The parties shall appear for a meeting to set a trial date at 9:00 a.m. on March 27, 2008.

SO ORDERED.

s/ Richard J. Arcara

HONORABLE RICHARD J. ARCARA  
CHIEF JUDGE  
UNITED STATES DISTRICT COURT

DATED: March 18, 2008